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SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 22nd August, 2013.

No. 9330/L.A.,—The following Bill which has been introduced in the Odisha Legislative Assembly on the 21st August, 2013 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

THE ODISHA SELF-HELP CO-OPERATIVES (REPEAL) BILL, 2013

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BILL

TO REPEAL THE ODISHA SELF-HELP
CO-OPERATIVES ACT, 2001

BE it enacted by the Legislature of the State of Odisha in the
Sixty-fourth Year of the Republic of India as follows: —

Short title.

1. (1) This Act may be called the Odisha Self-Help Co-operatives
(Repeal) Act, 2013.

(2) It shall be deemed to have come into force on the 6th June,
2013.

Repeal of
Odisha
Act 4 of 2002.

2. (1) The Odisha Self-Help Co-operatives Act, 2001 is hereby
repealed.

Odisha
Act 4 of
2002.

(2) On such repeal, investigation, proceeding or remedy in
relation to any right, privilege, obligation, liability, claim or demand,
penalty, forfeiture or punishment pending under the Act so repealed
shall continue or be enforced.

Savings of
existing
Co-operatives.

3. Save as provided in sub-section (2) of section 2, every Co-operative existing immediately before the commencement of this Act, which has been registered under the Act so repealed shall be deemed to be registered under the corresponding provisions of the Odisha Co-operative Societies Act, 1962 and the bye-laws or the Articles of Association, by whatever name called, shall, so far as they are inconsistent with the provisions of the Odisha Co-operative Societies Act, 1962, be amended in accordance with the provisions of that Act and shall be reconstituted the Board of Directors, within three months from the date of commencement of this Act by such Co-operative failing which the said Board of Directors of such Co-operative shall stand dissolved on expiration of the said period of three months and the management of such Co-operative shall vest in the Registrar of Co-operative Societies and the Registrar shall within two months from the date of such dissolution shall take steps for amendment of the bye-laws or Articles of Association and reconstitute the Board of Directors in accordance with the provisions of the bye-laws of such Co-operatives and the provisions of the Odisha Co-operative Societies Act, 1962.

Odisha Act 2
of 1963.

Odisha Act 2
of 1963.

Odisha Act
2 of 1963.

4. (1) The Odisha Self-Help Co-operatives (Repeal) Ordinance, 2013 is hereby repealed.

Odisha
Ordinance
1 of 2013.

(2) Notwithstanding such repeal, anything done or action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Ninety-seventh Amendment) Act, 2011 has come into force with effect from the 15th February, 2012. As per the Constitutional amendment, forming of Co-operative Societies has been made a fundamental right of the citizens of India. Voluntary formation, autonomous functioning, professional management and democratic control of Co-operatives has been included under the Directive Principles of State Policy and promotion of Co-operative Societies has been made an obligation for the State. It is mandatory for the State to enact laws in conformity with amended provisions of the Act within one year from the date of such commencement i.e. 15th February, 2012. Accordingly, the Odisha Co-operative Societies Act, 1962 has been amended to bring it in conformity with the Constitution (Ninety-seventh Amendment) Act, 2011.

The Odisha Self-Help Co-operatives Act, 2001 provides for the Co-operatives to function parallel to the Co-operative Societies formed under the Odisha Co-operative Societies Act, 1962. The Constitution 97th Amendment requires the Odisha Self-Help Co-operatives Act, 2001 to be amended in the same lines as the Odisha Co-operative Societies Act providing for election of members of Board by an independent authority, reservation for SC or ST and Women in the Board, professionalization of management, supersession or suspension of Board and audit of accounts by auditors or auditing firms taken from a panel approved by Government etc. Consequent upon such amendment, the Co-operatives will lose their unique character as opposed to the Co-operative Societies. This will result in the State having two State Acts governing the Co-operatives and the Co-operative Societies without much distinction between them. It is, therefore, considered expedient and felt necessary that the Co-operatives registered under the Odisha Self-Help Co-operatives Act, 2001 are brought under the Odisha Co-operative Societies Act, 1962 and the Odisha Self-Help Co-operatives Act, 2001 is repealed. In

effect, the Co-operatives registered under the Odisha Self-Help Co-operatives Act, 2001 shall be deemed to be registered under the Odisha Co-operative Societies Act, 1962 and the Articles of Association shall be amended in conformity with the provisions of the Odisha Co-operative Societies Act, 1962 and the Board of Directors reconstituted by the Co-operatives within 3 months failing which the Board of Directors of such Co-operatives shall stand dissolved and the management of the Co-operatives shall vest in the Registrar of Co-operative Societies. Upon such dissolution, the Registrar within two months shall take steps for amendment of the Articles of Association and reconstitute the Board of Directors in accordance with such amended provisions and the provisions of the Odisha Co-operative Societies Act, 1962.

This will dispense with a situation where two similar institutions with same basic principle, function under two different Acts facilitate bringing them within the fold of a common law.

The Bill seeks to achieve the above objectives.

BIKRAM KESHARI ARUKHA
Member-in-Charg

A. K. SARANGI
Secretary
Odisha Legislative Assembly

STATEMENT EXPLAINING THE CIRCUMSTANCES WHICH HAD NECESSITATED IMMEDIATE LEGISLATION BY AN ORDINANCE

The Constitution (Ninety-Seventh Amendment) Act, 2011 has come into force with effect from 15th February 2012. As per the Constitutional Amendment, forming of Co-operative Societies has been made a Fundamental Right for the Citizens of India. Similarly, promotion of voluntary formation, autonomous functioning, professional management and democratic control of Co-operatives has been included in the Directive Principles of State Policy, thereby, casting constitutional obligation on the State for promotion of Co-operatives. In keeping with the provisions of the Constitution (Ninety-Seventh Amendment) Act, 2011, it becomes mandatory for the State Government to carry out necessary amendment or repeal of the provision of any Law relating to Co-operative Societies prevailing in the State which is inconsistent with the constitutional amendment within one year of such amendment coming into force. Accordingly, Odisha Co-operative Societies Act, 1962 has been amended in tune with the provisions made in the Constitution (Ninety-Seventh Amendment) Act, 2011.

The Constitutional Amendment also required amendment of the Odisha Self-Help Co-operatives Act, 2001 in the same lines as the Odisha Co-operative Societies Act, 1962. Such amendment to the Odisha Self-Help Co-operatives Act, 2001 will result in the State having two parallel Acts without much distinction between them. So, it is considered expedient and felt necessary that the Co-operatives registered under the Odisha Self-Help Co-operatives Act, are brought under the Odisha Co-operative Societies Act, 1962 and the Odisha Self-Help Co-operatives Act, 2001 is repealed. This

will facilitate dispensing with two similar institutions with same basic principles functioning under two different Acts and bringing them within the fold of a common law.

On expiry of the transitional period of one year, the existing provisions of the Odisha Self-Help Co-operatives Act, 2001 which are inconsistent with the Constitutional Amendment became contrary to the constitutional provision and continuance of the Co-operatives unconstitutional. Hence, repeal of the Odisha Self-Help Co-operatives Act required immediate legislation by an ordinance dated 6th June, 2013 as the Assembly was not in session.

BIKRAM KESHARI ARUKHA

Member-in-Charge